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COMMISSION ON HUMAN RIGHTS

Fifty-eighth session

SUMMARY RECORD OF THE 40th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 15 April 2002, at 3 p.m.

Chairperson: Mr. LEWALTER (Germany)
(Vice-Chairperson)

later: Mr. JAKUBOWSKI (Poland)
(Chairperson)

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The meeting was called to order at 3.05 p.m.

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

1. Mrs. ROBINSON (United Nations High Commissioner for Human Rights) recalled that, on 5 April 2002, the Commission on Human Rights had adopted resolution 2002/1, requesting her to head a visiting mission to travel quickly to the occupied territories and to submit its findings and recommendations to the Commission at its current session.

2. Immediately after the adoption of that resolution, on 5 April, she had transmitted it to the Permanent Representative of Israel and had begun consultations on the composition of the mission. On Monday, 8 April, she had announced that Mr. Felipe González, former Prime Minister of Spain, and Mr. Cyril Ramaphosa, former Secretary-General of the African National Congress of South Africa, had agreed to join her. After the other members' arrival in Geneva on 8 and 9 April respectively, the full team had met to discuss developments on the ground and the programme for the mission. The members of the mission had briefed the Expanded Bureau of the Commission on their contacts with the Permanent Mission of Israel and on the planned programme for the mission. On 11 April, the Chairperson of the Commission had sent a letter to the Permanent Representative of Israel.

3. She had spoken several times to the Permanent Representative of Israel to request the cooperation of the Israeli authorities with the visiting mission. On 9 April, the Permanent Representative had written to her to tell her that her letter of 5 April would be forwarded immediately to Jerusalem. He had also said in his letter that careful consideration would be given to her communications, that he would be in close contact with her Office and that he would keep her informed of any developments regarding a possible visit and its parameters. Immediately after receiving that letter, the members of the mission had replied in writing that they had agreed to visit the area at short notice in view of the urgency attached by the international community to the need to act to protect the lives and fundamental freedoms of both Palestinians and Israelis and that they believed the mission should be seen in tandem with the peacemaking efforts already under way. They had also issued a communiqué. Since then, contact had been maintained but there had been no reply to the request for cooperation addressed to the Israeli authorities, so that the mission had not yet been able to set out on its visit. However, visas had been requested for the members of the mission and their accompanying staff and arrangements had been made to allow them to depart at any time.

4. While awaiting the agreement of the Israeli authorities, the mission had requested the secretariat to gather information from the staff of the Office of the United Nations High Commissioner for Human Rights (OHCHR) stationed in the region and also from other United Nations and humanitarian organizations. She had set up a task force to coordinate the gathering of information on the human rights situation in both the occupied Palestinian territories and Israel. The secretariat had also arranged a meeting between the members of the mission, the

Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Mr. Dugard, and the Coordinator of the OHCHR office in Gaza, Ms. Oyediran. The members of the mission had also met representatives of various United Nations organs and other specialized agencies present on the ground and the President of the International Committee of the Red Cross (ICRC).

5. The international community had not been idle during the past week in the face of such a serious situation. On 10 April, the Secretary-General of the United Nations, the Minister for Foreign Affairs of the Russian Federation, the Secretary of State of the United States and the High Representative for the Common Foreign and Security Policy of the European Union had issued a joint statement after a meeting in Madrid. Shortly afterwards, the United States Secretary of State, Colin Powell, had visited the region, where he had met both Ariel Sharon and Yasser Arafat. In addition, on 15 April, three ICRC teams had received permission to enter the Jenin refugee camp, where the fighting had been particularly intense. The number of victims was not known.

6. The situation continued to deteriorate. Two more suicide attacks had been perpetrated recently. Israeli military operations on an exceptional scale had been carried out in the towns of the West Bank, leaving hundreds of people dead and thousands displaced and causing enormous material damage. In Bethlehem, the stand-off continued.

7. That tragic slaughter of Palestinians and Israelis must stop. Some way of accounting for the deaths and destruction must be found. The visiting mission would be a first step in that direction. The international community could not tolerate the indiscriminate killing of Israeli civilians or the unjustified slaughter of Palestinians and the destruction of their infrastructure. Nothing could justify waging war on civilians. The international community had a duty to protect life. As the Secretary-General had said, the United Nations could not remain neutral in such circumstances. The Secretary-General had written to Mr. Sharon and Mr. Arafat, asking them for a solemn undertaking to respect human rights. She intended to do the same.

8. It was important to be patient and not to lose hope that the Israelis and Palestinians would return to the path of peace. In that respect, she welcomed the recent statement by Mr. Arafat in which he condemned the suicide attacks and all murders of civilians and she noted that the Israeli Supreme Court had ordered that the bodies of those killed in Jenin should be returned to the Palestinians for burial.

9. It should never be forgotten that the sole foundation of international order and security was respect for human rights standards and humanitarian law. Force should not be allowed to prevail over the law.

10. In conclusion, she expressed her gratitude for the Commission's support for her personally and for her two colleagues. The letter that the Chairperson of the Commission had just received from the representative of Israel, in which the latter said that the planned mission was still under serious consideration in Jerusalem, held out hope that the mission would indeed go ahead.

11. The CHAIRPERSON thanked the High Commissioner for Human Rights and the other members of the visiting mission for taking the trouble to address the Commission. He was confident there was a good chance that the mission would go ahead and assured the High Commissioner of the full support of the Commission.

The meeting was suspended at 3.30 p.m. and resumed at 3.35 p.m.

12. Mr. RAMLAWI (Observer for Palestine) said that the situation in the occupied Palestinian territories had deteriorated since the vote on Commission resolution 2002/1. The Israeli attack on the Jenin camp had caused over 500 deaths and hundreds were wounded or missing. There was a risk of further massacres by the Israeli army, which had just sealed off other Palestinian camps around Nablus. Every minute, Palestinians were dying and had to watch as their institutions and homes were destroyed by the Israeli war machine.

13. He knew that the High Commissioner and her team were doing their best to visit the occupied territories as quickly as possible, but the Israeli Government, which was also preventing journalists and international delegations from visiting Jenin, did not want the visit to take place. It was trying to hide the traces of its crimes by removing the bodies of hundreds of victims in refrigerated lorries to bury them in common graves in Israel. The visit to the region by the United States Secretary of State, Mr. Powell, was a pretext. Mr. Powell was no substitute for the High Commissioner and her team. He had not been asked to inquire into the human rights violations and crimes against humanity that were being committed every day. The High Commissioner should be able to visit the occupied territories as soon as possible. The Commission should assume its responsibilities in order to enable the international community to put a stop to those human rights violations.

14. Mr. AKRAM (Pakistan), speaking on behalf of the States members of the Organization of the Islamic Conference (OIC), said that the Commission could not continue to remain silent and inactive in the face of the deteriorating situation in the occupied Palestinian territories. He proposed that the Commission should adopt an emergency decision worded in the following way:

"The Commission on Human Rights

Expresses its deep dismay that its resolution 2002/1 of 5 April 2002 has not been implemented, even though the human rights situation in the occupied Palestinian territory has continued to deteriorate owing to the absence of a positive response from the occupying Power;

Calls for the immediate implementation of its resolution 2002/1 of 5 April 2002;

Urges the High Commissioner for Human Rights to report urgently to the Commission on Human Rights on the deteriorating human rights situation in the occupied Palestinian territory on the basis of authentic reports from all concerned organizations present in the occupied territories."

15. Mr. PEREZ-VILLANUEVA Y TOVAR (Spain), speaking on behalf of the European Union, reaffirmed the Union's support for the High Commissioner in the exercise of the extremely difficult mandate entrusted to her as a result of the exceptional gravity of the situation in the occupied territories. He was sure that the common objective of all Commission members and observers was to contribute in a practical and effective way to putting an end to the human rights violations and loss of human life on both sides. To achieve that, the Commission's decisions must be based on as broad a consensus as possible and must not interfere with other initiatives under way in the region. The Union wished at all costs to avoid the discussion turning into another round of sterile accusations that did a disservice to human rights institutions and the Commission in particular. Any decision should contribute in a practical way to improving the lot of the victims. The Union took note of the proposal by the representative of Pakistan but needed time to study it in detail.

16. Mr. DEMBRI (Algeria) said he had always thought that all members of the Commission on Human Rights were on the side of the victims of human rights violations wherever those violations occurred, and yet the Commission was once again indulging in a formal dialectic exercise, despite having already lost its credibility in the light of the international initiatives being undertaken. He paid particular tribute to Mr. Saramango, winner of the Nobel Prize for Literature, who had launched an appeal on behalf of the Palestinian people, and to all those who, regardless of their nationality, had rallied round the President of the Palestinian Authority, Mr. Arafat, whose very life was threatened. While the violations committed bore the hallmarks of genocide and crimes against humanity, the members of the Commission were still wondering whether to adopt a Chairperson's statement or a binding resolution. In that regard, he pointed out that the Commission's resolutions were never binding except on weak countries. The Commission should demand the opening of humanitarian corridors to alleviate the suffering of the victims. The High Commissioner and her team should try to visit the territories, even without having obtained visas. It might be necessary to set up an international peace force to prevent a genocide. In any case, he supported the proposal by the representative of Pakistan.

17. Mr. VEGA (Chile) said that, if it was to defend human rights in the occupied territories, the Commission needed to act with great firmness but also with a certain amount of prudence. Its aim should be to ensure that resolution 2002/1 was implemented without delay, and thus to help reduce the number of victims.

18. Ms. GERVAIS-VIDRICAIRE (Canada) recalled that her delegation had not voted for resolution 2002/1. She took careful note of the letter addressed to the High Commissioner by the Israeli Ambassador on the feasibility of a mission. Unlike the representative of Pakistan, she did not believe the Commission had remained silent on the human rights situation in the occupied territories. That issue, on which the Bureau of the Commission was still working, had in fact been considered under agenda item 8 and had formed the subject of a special debate. Moreover, it was extremely important that the Commission should complete its work. Like the representative of Spain, she stressed the need to take account of other important initiatives such as the visit by the United States Secretary of State, Mr. Powell, and to study more closely the draft decision proposed by the delegation of Pakistan.

19. Mr. LIU Xinsheng (China) said the High Commissioner's mission would prevent the human rights situation from getting even worse in the occupied territories. He therefore supported the proposal by the representative of Pakistan. He also hoped that all the parties concerned would do whatever was necessary to ensure that the visit of the High Commissioner could go ahead as soon as possible.

20. Mr. ATTAR (Saudi Arabia) endorsed the statements made by the Palestinian and Pakistani delegations, and reaffirmed that the Commission should assume its responsibilities and help the High Commissioner to discharge the task entrusted to her by resolution 2002/1. He agreed with the representative of Algeria that the Commission needed to maintain its credibility and to take a decision as quickly as possible on the proposal by the delegation of Pakistan.

21. Mr. AKINSANYA (Nigeria), speaking on behalf of the African Group, said it was regrettable that the High Commissioner was unable to visit the occupied Palestinian territories in accordance with resolution 2002/1. Given the gravity of the situation, which required a quick decision, he supported the proposal by the delegation of Pakistan.

22. Mr. NORDMANN (Observer for Switzerland) said that the High Commissioner's mission to the occupied territories was necessary if the Commission was to form an accurate picture of the facts and events in the occupied territories rather than rely on the contradictory accounts received so far. He hoped that the mission would be able to go ahead as quickly as possible and that the High Commissioner would be able to assess the humanitarian situation in the occupied territories. The minimal and universal rules of humanitarian law must be observed in all circumstances in order to limit the effects of the violence. He shared the great concern expressed by the members of the Commission and the determination of the High Commissioner and her team to visit the occupied territories.

23. Mr. FERNANDEZ PALACIOS (Cuba) said it was regrettable that the High Commissioner had been unable to visit the occupied territories, essentially because of the Israeli Government's failure to cooperate. He pointed out that the High Commissioner's fact-finding mission had an international mandate that complemented current or future bilateral initiatives. The situation in the occupied Palestinian territories was intolerable and an in-depth inquiry should be held into the Jenin massacre. His delegation supported the proposal by the delegation of Pakistan and was prepared to adopt it immediately.

24. Mr. AKRAM (Pakistan), speaking on behalf of the OIC member States, said that he would have preferred the Commission to have reached a decision at once, but he was prepared to leave more time for the delegations which so desired to study his proposal more closely.

25. The CHAIRPERSON suggested that consideration of the draft decision should be postponed until the following meeting.

26. It was so decided.

INDIGENOUS ISSUES (agenda item 15) (continued) (E/CN.4/2002/96, 97 and Add.1, 98 and 133; E/CN.4/2002/NGO/13, 27, 58, 93, 151, 157 and 195; A/56/206; E/CN.4/Sub.2/2001/17 and 21)

27. Mr. MOR., (Centro de Estudios Europeos), speaking also on behalf of the Movimiento Cubano por la Paz y la Soberanía de los Pueblos, the Afro-Asian Peoples' Solidarity Organization and the National Union of Jurists of Cuba, said he wished to emphasize first of all that many non-governmental organizations (NGOs) thought it was not a very good idea to deal with agenda item 15 in two separate meetings and that it was also dangerous to consider it jointly with agenda item 14. He hoped that dealing jointly with indigenous issues and those relating to minorities and migrant workers would not set an unfortunate precedent.

28. The proclamation in 1994 of the International Decade of the World's Indigenous People had raised hopes that progress would finally be made in redressing one of the most glaring injustices in the history of humankind. Unfortunately, despite the important work of the working group on a draft United Nations declaration on the rights of indigenous peoples and the Sub-Commission on the Promotion and Protection of Human Rights in identifying some of the causes of the current problems and some possible solutions, discrimination, dispossession and exploitation of their natural resources by companies or States themselves remained the daily lot of the indigenous peoples. In short, the policy of systematic rejection initiated with the conquest of the Americas was still the same. In many countries it was wishful thinking to talk of sustainable development when there was no respect for the culture of the indigenous peoples living there, they were not consulted on decisions that affected them and they were denied their property rights, including their intellectual property rights. The establishment of the Permanent Forum on Indigenous Issues was a step in the right direction and could be a significant step towards more dialogue between indigenous peoples and Governments. However, that mechanism would be able to make a significant contribution only if Governments showed real political will at the national level to solve the problems facing indigenous peoples in their territories.

29. Mr. DIAZ DE JESUS (Juridical Commission for Auto-Development of First Andean Peoples) said that he was grateful to the organization he represented for allowing him to address the Commission on Human Rights on behalf of the indigenous peoples of Mexico, where serious and systematic violations of human rights, especially those of indigenous peoples, occurred. Hopes for change under the new Government had been dashed, and the good intentions announced to the international community had not been put into practice in the field. As a result, indigenous members of the National Liberation Zapatista Army (EZLN) were still fighting a war that the President had promised to bring to an end within "15 minutes" of coming to power a year earlier. Congress had passed a law that totally contradicted the San Andrés accords and that seriously jeopardized any chance of making peace. Moreover, the President had lost all credibility: a month earlier he had stated in Hamburg that he would "reform the reform" implied by that law with regard to indigenous rights and culture, but his statement had so far proved to be no more than an empty promise. At the same time, over 300 constitutional complaints lodged by indigenous people against the reform introduced by the new law were still pending before the Supreme Court of Justice.

30. Indigenous people continued to be the victims of countless unspeakable acts. For example, two indigenous women had been raped by soldiers in March 2002 and that was in addition to four similar cases recorded since 1997 in the State of Guerrero alone and others that had taken place in Chiapas. Moreover, a judge of the Supreme Court of Justice of the State of Guerrero had declared that the Indigenous and Tribal Peoples Convention, 1989 (No. 169) of the International Labour Organization (ILO) was not applicable, even though Mexico had ratified that instrument for a further period of 10 years. His statement must be seen as the beginning of a disquieting campaign to break up the organization that the Tlapanec and Mixtec indigenous peoples were trying to set up through the Council of Indigenous Authorities of the region of San Luis Acatlan and Malinaltepec, which had established their own police force to combat insecurity. That authentic and positive experience of organized autonomy was unfortunately being targeted by the government authorities and even the army. In the State of Guerrero, Gregorio Alfonso Alvarado López, a member of the Council of "500 Years of Indigenous Resistance", was reported to have been missing since 26 September 1996. In addition, 11 cases of murder alleged to have been committed by the army were still waiting to be brought to court. Complaints lodged about the sterilization of indigenous men and women were also pending - for how long, no one could say.

31. Ms. SAHUREKA (International Association of Democratic Lawyers) said that the root causes of the fighting in the Moluccas must be investigated. The people of those islands, whose civilization was a very ancient one, called on the Commission to ensure that General Assembly resolution 55/85, on the universal realization of the right of peoples to self-determination, was implemented. An international United Nations investigation was necessary to throw some light on the war crimes and crimes against humanity that continued to be perpetrated on the indigenous Moluccan peoples by the Indonesian forces and their paramilitary troops. Such an investigation would immediately bring to light the grave insecurity faced by people who lived in constant danger of being driven off their ancestral lands or savagely killed on their own land. In three years, the inhabitants of the Moluccas had witnessed utter devastation and the almost total collapse of their educational system and had seen 85 per cent of their economy ruined. Furthermore, 75 per cent of them had been driven off their lands by soldiers who had set up training camps there. In all, over 40,000 people had died, over 100,000 had fled and practically the only people left were displaced persons living in constant fear for their lives and subject to forced marriages, systematic rapes, kidnappings, forced conversion to Islam, circumcision and female genital mutilation.

32. The so-called Malino peace accord imposed on the indigenous people benefited only the Indonesian troops and their mercenaries and served only to justify a further imminent strike by the Indonesian army. Human rights defenders and innocent civilians were most likely to pay the price. The United Nations, and the Commission on Human Rights in particular, must begin to monitor the situation in the islands as a matter of urgency. That was the only way to prevent an entire people from being wiped out.

33. Mr. MALEZER (Aboriginal and Torres Strait Islander Commission) said that the nationwide organization he represented had 18 national representatives and about 380 regional representatives elected by an adult population of 400,000 Aborigines and Torres Strait Islanders. He wished to bring to the attention of the Commission on Human Rights the concerns of the indigenous peoples of Australia with regard to the slow progress in drafting the declaration on

the rights of indigenous peoples. The working group's work was being held up by certain States that were reluctant to recognize the collective rights of indigenous peoples and that opposed recognition of their right to self-determination. His organization did not see any advantage in a declaration that was limited to the rights of indigenous peoples as individuals, as those rights were the same for everyone. He therefore urged States to recognize the collective rights of indigenous peoples and incorporate them into the declaration in the most appropriate manner.

34. He welcomed the election of Australia and the United States of America to the Commission on Human Rights. Although his organization had criticized the attitude of the Governments of those countries in the recent discussion on the fundamental rights of indigenous peoples, it believed that, as members of the Commission, they would be able to rise above their national interests and view human rights from a global perspective. It was to be hoped, in particular, that Australia would clarify its position on the rights of indigenous peoples and the human rights treaties. He would like to know in particular if the Australian Government acknowledged that the Native Title Amendment Act of 1998 was racially discriminatory, as had been admitted by the Australian national human rights institution, the Committee on the Elimination of Racial Discrimination and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. It was time for Australia to implement the International Convention on the Elimination of All Forms of Racial Discrimination in its legislation concerning aboriginal peoples, to submit to the Committee on the Elimination of Racial Discrimination its periodic reports and its replies to the 21 specific questions asked by the Committee and to confirm that Australia was fulfilling its obligations under the treaties to which it was a signatory.

35. He was bringing those issues to the attention of the Commission on Human Rights on behalf of all the indigenous peoples around the world, who asked the United Nations, and the Commission in particular, to recognize their struggle for equality and freedom and not to permit States to impose conditions that restricted their rights. He also asked the Commission to refuse to confirm documents such as the Declaration made at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban which contained reservations concerning the rights of indigenous peoples.

36. Mr. GENIUSAS (International Federation of Free Journalists) said it was regrettable that, according to information from the United Nations Educational, Scientific and Cultural Organization (UNESCO), almost half of the world's 6,000 languages were in danger of extinction in many regions. Many indigenous languages were disappearing, as in the case of the languages of the Finno-Ugric peoples in the Russian Federation, including Udmurt, or the Baltic languages (Latvian, Estonian and Lithuanian), which were victims of Russification. Linguists generally considered a community's language to be "endangered" when 30 per cent or more of its children no longer learned it. In that respect, it was noteworthy that Estonia had set up a social integration programme to promote multiculturalism by teaching Estonian to young non-Estonians, including local Russian-speakers. In Lithuania, the various nationalities enjoyed the same cultural, social and linguistic rights. Unfortunately, the same could not be said of the Lithuanians living in the Kaliningrad region of the Russian Federation. It was also regrettable that, despite the right of all peoples to self-determination, enshrined in the Universal Declaration of Human Rights, the Chechen people had never suffered as much as since the Russian forces

had started their military campaign. The reports from the region were horrifying. The "cleansing" operations carried out on the civilian population threatened the very survival of the Chechen people.

37. Mr. ALLMAND (International Centre for Human Rights and Democratic Development) said that one of the main aims of the Canadian organization he represented was to promote the rights of indigenous peoples. His organization had thus attended meetings of the working group on a draft United Nations declaration on the rights of indigenous peoples and those of a similar working group set up within the Organization of American States (OAS). It was scandalous that, in the seven years since it had been set up, the United Nations working group had adopted only 2 of the 34 articles in the draft declaration. There were treaties and declarations on almost every category of persons - women, children, refugees, migrant workers, minorities, etc. - but none for indigenous peoples, even though they were the main victims of discrimination, particularly in the Americas. In Canada, for example, the rights of those peoples continued to be violated. The Government of British Colombia intended to go ahead with a referendum on the rights of indigenous peoples in which all citizens in the region would be allowed to vote, even though the vast majority of them were not indigenous. That was an alarming situation.

38. Lastly, at the World Conference in Durban, the countries had adopted a Declaration that clearly discriminated against indigenous peoples. Paragraph 24 of the Declaration implied that indigenous peoples did not have the right to self-determination, although that right was recognized in the International Covenant on Civil and Political Rights. His organization urged Governments to show the political will and to adopt the draft declaration on the rights of indigenous peoples before 2004.

39. Mr. LORD (Canada) said that his delegation would be a sponsor of the combined resolution on the Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights and on the International Decade of the World's Indigenous People. He was convinced that the Permanent Forum on Indigenous Issues, which was due to hold its first session in New York from 13 to 24 May 2002, had great potential, and his Government supported the holding of a pre-session meeting for the members of the Permanent Forum.

40. He drew the Commission's attention to Economic and Social Council decision 2001/316, which requested the Secretary-General to seek information from Governments, NGOs, indigenous people's organizations and the United Nations system as soon as possible and not later than the Council's substantive session of 2003 as a basis for holding the review mandated in Council resolution 2000/22 of all existing mechanisms, procedures and programmes within the United Nations concerning indigenous issues, including the Working Group on Indigenous Populations, with a view to rationalizing activities, avoiding duplication and overlap and promoting effectiveness in that area. It was for the Commission to determine how to maintain its leading role in considering the question of indigenous rights as human rights while supporting the Permanent Forum.

41. His delegation would once again be submitting a resolution authorizing the open-ended inter-sessional working group established in accordance with Commission on Human Rights resolution 1995/32 to meet for 10 working days prior to the fifty-ninth session of the

Commission to continue its work on the draft declaration on the rights of indigenous peoples. It was imperative that States should work harder and show more political will. To that end, his delegation would like to add to the resolution a provision calling for a meeting of States, at the beginning of September if possible, to discuss the cluster of articles which it had been agreed should be taken up at the next session of the working group. He was confident that greater cooperation and determination would make it possible to achieve the overall objective of formulating a strong and effective declaration on the rights of indigenous peoples before the end of the International Decade of the World's Indigenous People.

42. Lastly, his Government would continue to support the United Nations Voluntary Fund for Indigenous Populations and the Voluntary Fund for the International Decade of the World's Indigenous People, and he called on other Governments to do likewise.

43. Mr. VEGA (Chile), speaking on behalf of the Group of Latin American and Caribbean States, reaffirmed the willingness of those States to improve the situation of indigenous people in their region and around the world in order to put an end to discrimination against them and to their marginalization and exclusion. To that end, he urged the open-ended inter-sessional working group established in accordance with Commission on Human Rights resolution 1995/32 to speed up its work on the draft United Nations declaration on the rights of indigenous peoples. There was no doubt that the existing protection and monitoring mechanisms did not protect those peoples. Consequently, it was necessary to develop an international instrument of a universal nature that would give a clear definition of the collective and individual rights of indigenous peoples and recognize their identity. For that purpose, the process of dialogue needed to be strengthened and improved with a view to reaching agreement on the key questions raised by the draft declaration.

44. The States he was representing welcomed the establishment of the Permanent Forum on Indigenous Issues, which was due to hold its first session from 13 to 24 May in New York, and considered that it should be adequately funded from the regular budget of the United Nations.

45. Mr. ANDRADE (Chile) explained that, since 1990, his Government's policy towards indigenous peoples had put the emphasis on returning land to them; the "Origins" programme was designed precisely for that purpose. However, there were still some problems in that regard, particularly in terms of the right to development that would respect the identity of the indigenous peoples. He explained that the tension in the south of the country, which had been reported in the press, involved a few communities only. While discrimination still existed in Chile, the issue of indigenous peoples should be addressed from a broader perspective based on recognition of the ethnic and cultural diversity of the country.

46. In January 2001, his Government had set up the National Truth and Reconciliation Commission to make proposals for establishing new relationships between indigenous peoples, the authorities and Chilean society at large. In addition, his Government intended to carry out the necessary reforms with a view to signing the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). In conclusion, he observed that one of the greatest challenges facing modern societies was to find a way to achieve the economic, social and cultural development of indigenous peoples while respecting their traditions and values.

47. Mr. VALDIVIESO (Ecuador) said that his country's Constitution recognized the collective rights of indigenous peoples, and his Government was determined to ensure that those rights were enforced with the assistance of a number of specialized bodies, such as the Council for the Development of Nationalities and Peoples of Ecuador, as well as the relevant ministries. His Government believed that dialogue should not only support all the steps taken to enforce respect for the rights of indigenous peoples but should also be the preferred approach in the Permanent Forum on Indigenous Issues. He called on States to show flexibility in order to reach consensus in the working group on a draft United Nations declaration on the rights of indigenous peoples.

48. In conclusion, his Government assured the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people of its support and cooperation in his future work.

49. Mr. VEGAS TORRES (Peru) said that his Government was doing everything possible to promote the development of the indigenous peoples of Peru and to ensure they had the same opportunities as the rest of the population. For that purpose it had established the Council of Andean and Amazonian Peoples, which included representatives of indigenous communities and was responsible for coordinating government policy towards those communities. At the international level, Peru played an active part in the work on issues concerning indigenous peoples. In that connection, he believed that the working group on a draft United Nations declaration on the rights of indigenous peoples had contributed greatly to fostering understanding and trust between the various parties concerned. The working group would therefore be ready at its next meeting to tackle some fundamental issues such as self-determination. It would be useful if, in preparation for that meeting, government delegations held unofficial consultations on those issues. He reiterated his Government's support for the working group and, in particular, its Chairperson-Rapporteur, Mr. Luis Enrique Chávez.

50. Mr. MARTÍNEZ (Mexico) said the Government of President Fox had made it a priority to establish a new relationship between the State, the indigenous peoples of Mexico and Mexican society as a whole. The main objectives of the Federal Government's National Programme for the Development of Indigenous Peoples, 2001-2006, were to ensure full respect for the country's cultural diversity, to promote equality of opportunities for indigenous peoples and to update the legal framework governing the exercise of their rights, to promote the active participation of indigenous communities in the formulation of development plans and programmes and to overhaul institutions so that they took into account all aspects of the development of those peoples.

51. In 2001, his delegation, together with that of Guatemala, had proposed the creation of the post of special rapporteur on the situation of human rights and fundamental freedoms of indigenous people. He thanked the Special Rapporteur for his first report and said his delegation was preparing, again with the delegation of Guatemala, to submit a draft resolution to support and strengthen his work.

52. He was concerned at the lack of progress made by the working group on a draft United Nations declaration on the rights of indigenous peoples and urged all delegations to redouble their efforts to have the text adopted without delay. With a view to speeding up the work of the working group, his delegation had suggested looking into ways of ensuring that indigenous representatives were more closely involved in the work. It hoped that States would react favourably to that initiative. In addition, his Government intended to play an active part in the proceedings of the Permanent Forum on Indigenous Issues that was due to meet for the first time in New York in May 2002.

53. Mr. NAESS (Observer for Norway), speaking also on behalf of the other Nordic countries (Denmark, Finland, Iceland and Sweden), said that the Nordic countries continued to attach the highest priority to the promotion and protection of the rights of indigenous peoples and fully recognized the value of the diversity of the cultures and heritage of those peoples, whose full participation in all aspects of the society in which they lived was essential. The activities undertaken as part of the International Decade of the World's Indigenous People had helped increase awareness of the problems facing those peoples. He welcomed the appointment of the Special Rapporteur, Mr. Rodolfo Stavenhagen, whose first report was much appreciated. The Special Rapporteur had emphasized the lack of protection for indigenous peoples and the gap between legislation and its implementation. The Nordic countries assured the Special Rapporteur of their willingness to cooperate fully with him, particularly in his attempts to clarify situations in which the human rights of indigenous peoples were not respected.

54. One of the main objectives of the International Decade was to adopt a declaration on the rights of indigenous peoples. The Nordic countries were committed to doing their utmost to have the declaration adopted before the end of the Decade. Unfortunately, the working group was far from ready to submit a text to the Commission. The Nordic countries called on all parties to show greater flexibility so that the negotiations could be concluded and the draft declaration completed before the end of the Decade, in 2004.

55. The establishment of the Permanent Forum on Indigenous Issues was a landmark in the recognition of the indigenous cause by the international community. The Nordic countries had high expectations of the Forum, particularly of its first session, the preparations for which had been entrusted to the Office of the United Nations High Commissioner for Human Rights. It was to be hoped that the Forum's secretariat would be given the necessary resources.

56. Mr. HEYWARD (Observer for Australia) said that indigenous Australians were the most disadvantaged group in Australian society. His Government recognized that fact and was determined to remedy the situation. That was why the funds allocated in the current year to programmes for indigenous people were considerably higher than in previous years. His Government's goal was to ensure that indigenous people were able to participate fully in the life of the nation and to achieve lasting reconciliation between all members of Australian society.

57. His delegation strongly supported the work of the working group on a draft United Nations declaration on the rights of indigenous peoples and believed that the consultations between States, which took place between the sessions of the working group, could help speed things up. It welcomed the contribution made by the Special Rapporteur in his first

report. His delegation also recognized the potential of the Permanent Forum on Indigenous Issues but thought it vital to avoid duplication of work on those issues within the United Nations. In that regard, it was important that the Economic and Social Council should review the various mandates in that area after the first meeting of the Forum.

The meeting was suspended at 4.30 p.m. and resumed at 4.45 p.m.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION

(b) DISAPPEARANCES AND SUMMARY EXECUTIONS

(c) FREEDOM OF EXPRESSION

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

(e) RELIGIOUS INTOLERANCE

(f) STATES OF EMERGENCY

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

(agenda item 11) (continued) (E/CN.4/2002/5, 7, 8, 12, 63-65, 66 and Add.1, 67, 68, 69 and Add.1, 70, 71, 72 and Add.1-3, 73 and Add.1, 74 and Corr.1 and Add.1 and Corr.1 and Add.2, 75 and Add.1 and 2, 76 and Add.1, 77 and Add.1 and 2, 78, 79, 121, 122, 124, 125, 130, 134, 137, 143, 144, 152, 154, 155, 157, 162, 163 and 170; E/CN.4/2002/NGO/1, 9-11, 16, 18, 19, 25, 30, 38, 42, 49, 53, 70-79, 100, 104, 106, 120, 126, 131-141, 144, 148, 162, 164, 177, 182-187 and 193; A/56/181 and 253; A/RES/56/143; E/CN.4/Sub.2/2001/6 and Corr.1 and 31)

58. Mr. REYES RODRIGUEZ (Cuba), having welcomed the appointment of Mr. Theo van Boven as the new Special Rapporteur on the question of torture, denounced the mimetic, selective and hypocritical approach taken, as usual, by many members of the Commission to agenda item 11.

59. Two striking facts deserved the attention of the Commission: the first was the abortive attempt at a coup d'état by the most reactionary circles of the Venezuelan oligarchy, an attempt which had been carried out in cooperation with the private media. The revolutionary intervention of the Venezuelan people had ended the coup and Mr. Hugo Chávez, the democratically and constitutionally elected President, had returned to power. The Government of the United States, that great defender of democratic institutions, might have been expected to invoke immediately the Inter-American Democratic Charter it had imposed on Latin America so as to restore President Chávez and others from his legitimate administration who were under arrest to their positions. On the contrary, the United States had immediately recognized the coalition that carried out the coup d'état, showing once again that, when its interests were at

stake, representative democracy did not count. The Cuban people paid tribute to the Venezuelan people for their courage, their defence of democracy and their steadfast determination to see the "Bolivarian revolution" through to the end.

60. The second striking fact was the desire for hegemony by the most reactionary of the transnational capitalists, particularly groups based in the United States, which were trying to dominate the whole world, including by force of arms. The neo-Fascist ideology of those groups was seriously jeopardizing the social, civil and political gains of recent decades.

61. His delegation was also concerned at the United States tendency to use the "war against terrorism" it had unleashed after the terrible events of 11 September 2001 as an excuse for ignoring many provisions of domestic and international law, including international humanitarian law.

62. Lastly, there had been a good deal of talk within the Commission about the role of democracy in the realization of civil and political rights and economic, social and cultural rights. His delegation fully agreed with that analysis, provided that "democracy" was not regarded as a sort of private property of those trying to impose their own socio-political system on the rest of the world. It rejected the idea that a development system based on socialism, as in the case of Cuba, might be a hindrance to the promotion and protection of human rights and fundamental freedoms. On the contrary, it was only since 1959 that Cuba had been able to ensure that all its citizens participated in political life and to guarantee to all the full enjoyment of the rights that permitted human beings to lead their lives in dignity.

63. Mr. TAYLOR (International Association for Religious Freedom) drew attention to the International Consultative Conference on School Education in relation to Freedom of Religion and Belief, Tolerance and Non-discrimination, held in Madrid in November 2001. To ensure consensus, the Conference had mentioned education for tolerance but not religious education itself, and that had disappointed some participants. In fact, many educationalists, including some of those attending the Madrid Conference, believed it was important to teach about religions in order to foster tolerance. Ignorance of religions often led to misinterpretations that led, in turn, to tensions or even conflicts. Tolerance did not just mean putting up with the other, but understanding and accepting the other, appreciating one another's viewpoints and engaging in constructive dialogue. School, or rather education in general, had an important role to play in that respect. The recommendations of the Madrid Conference should therefore be widely disseminated, not only in State schools but also further afield, as education began in the private domain, starting with the family and with religious communities themselves. In that respect, the Special Rapporteur on freedom of religion or belief deserved unreserved support for his approach, which rightly put the emphasis on prevention and advocated improving school education in order to eliminate intolerance and discrimination based on religion.

64. Ms. PARKER (International Educational Development), speaking also on behalf of the Indigenous World Association, welcomed the decisions by the Commission and the Sub-Commission on the Promotion and Protection of Human Rights to tackle the issue of terrorism and to ask Mrs. Koufa, from Greece, to make a study of it. In her progress report (E/CN.4/Sub.2/2001/31), the Special Rapporteur had rightly drawn attention to State terrorism. Indeed, although a lot had been said about the civilian victims of 11 September, it should not be

forgotten that far more people had been killed by terrorist regimes. Some States terrorized a particular group, such as the Falun Gong practitioners in China, thousands of whom had been tortured to death in Chinese prisons, sentenced to hard labour or locked up in psychiatric hospitals, while other States targeted entire regions, such as Jammu and Kashmir or the Kurdish region of Turkey. In that connection, she drew attention to the recent imprisonment of the Kashmiri political leader Yasin Malik and the continued detention of the Kurdish leader Abdullah Ocalan.

65. The organizations she represented were also very concerned at the anti-terrorist legislation adopted in some countries that flouted human rights, including those deemed essential for the protection of democracy. If the new measures adopted by the United States had been in force at the time of the Boston Tea Party, that event would have been deemed a terrorist act. Indigenous peoples were worried that the new measures might hinder their efforts to define their right to self-determination, especially in Alaska and Hawaii, territories which had been unilaterally removed from the list of non-self-governing territories after elections marred by irregularities. She joined the Secretary-General of the United Nations in calling on the international community to resist the erosion of human rights that was taking place under the pretext of combating terrorism.

Statement in exercise of the right to reply

66. Mr. NAJAFOV (Observer for Azerbaijan), replying to the representative of Armenia, recalled that, on the one hand, the Armenian parliament had decreed the annexation of Nagorny Karabakh and that, on the other, the Armenian army was committing acts of violence against Azerbaijani citizens, not only in Nagorny Karabakh but also in Azerbaijan itself.

67. The representative of Armenia had referred to a situation of "no population, no problem": he reminded him that there had been half a million Azerbaijanis on Armenian territory in 1997. He would like the representative of Armenia to provide some clarification about the fate of those people, who had certainly not left their homes of their own free will.

68. As for the peace negotiations within the framework of the Minsk Group of the Organization for Security and Cooperation in Europe (OSCE), they had stalled because of Armenia's uncompromising attitude. He advised the representative of Armenia to read the relevant Security Council resolutions carefully in order to obtain a better understanding of his responsibilities before addressing the Commission.

The meeting rose at 6 p.m.